

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, APRIL 24, 2001
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
9 A.M.**

Commissioners Present: Kathy Campbell, Chair
Bob Workman, Vice Chair
Bernie Heier
Larry Hudkins
Linda Steinman

Others Present: Norm Agena, County Assessor
Kerry Eagan, Chief Administrative Officer
Robin Hendricksen, Deputy County Assessor
Bruce Medcalf, County Clerk
Mike Thew, Chief Deputy County Attorney
Gwen Thorpe, Deputy County Clerk

Mike Thew, Chief Deputy County Attorney, explained that the Legislature amended the exemption statutes and referred to Neb. Rev. Stat., Sec. § 77-202.11 which states "leased public property, other than property leased for a public purpose, shall be taxed or exempted from taxation as if property was owned by the leaseholder". Property which was formerly exempt in name because it was held by the State or a political subdivision of the State can now be taxed if it is leased out to someone else to provide something other than a public purpose. He said in that type of situation those individuals now must now apply for exemption and show that the property is used exclusively for charitable, educational, or religious purposes. Thew stated the properties identified on the provided listing are the taxpayers who are obligated by the terms of the statute to report to the Assessor property they own which is leased. He added that the Assessor has conducted an initial screening to identify which properties should go back on the tax rolls and which should be taxable.

Thew explained that originally the legislation was to go into effect a year ago and that the Property Tax Administrator was to develop rules and regulations to assist assessors and boards in implementing the legislation, however, that process was not completed. He further stated that the Legislature extended the effective date one year and that the the regulation making process has been completed, however, those regulations provide no guidance beyond the language of the statutes.

Norm Agena, County Assessor, informed the County Board that the only organizations which can be dealt with are the ones who filed protests who are governmental subdivisions. According to statute, he said, the organizations which filed exemptions cannot be heard until after notice is published in the newspaper.

In response to a question asked by Hudkins regarding individuals leasing Airport Authority land, Thew stated the Legislature deleted from the corporation statutes the provision that a not-for-profit corporation, whose purposes included holding property on behalf of a governmental organization, got the same exemption that the government organization received. He explained organizations who hold property for governmental subdivisions no longer qualify for the exemption and are not entitled to file a protest.

Thew requested the listing from the County Clerk's Office showing the hearings set for Tuesday, April 24 be made a part of the record (Exhibit A).

MOTION: Hudkins moved and Steinman seconded to make the listing from the County Clerk's Office showing the hearings set for Tuesday, April 24 a part of the record. Steinman, Campbell, Heier, Hudkins and Workman voted aye. Motion carried.

LINCOLN AIRPORT AUTHORITY

Thew stated the protestants listed on pages one and two of Exhibit A are Lincoln Airport Authority (LAA) properties with the exception of protest number 2001-259 which is the Village of Sprague. It was noted that on page three protest numbers 2001-005 (Ron Flansburg), 2001-010 (Fix-Prop Shop, Inc.) and 2001-011 (Lincoln Christian Fellowship) all lease from the LAA. The last five protests listed on page four, 2001-187 through 2001-190 (Ronald Larson) and 2001-223 (Southeast Community College), are also LAA properties. Thew explained that LAA feels they have two different reasons for which their property should continue to be exempt. He stated in the statutes which created airport authorities the Legislature defined, specifically Section 3-511, all of the airport authorities' activities to be a public purpose. One contention of the LAA, Thew stated, is that by leasing their property they are pursuing a public purpose as defined by the statute.

Also contained in Section 3-511, is a statement by the Legislature. Thew read the following statement into the record, "The State of Nebraska covenants with the holders of bonds that authorities shall be required to pay no taxes or assessments upon any of the property acquired by them or under their respected jurisdictions, control, possession or supervision or upon the activities of authorities in the operation and maintenance of projects or upon any charges, fees, revenue or other income received by authorities except motor vehicle fuel and aviation fuel taxes." He explained that the statement is a covenant, by the Legislature, to people who buy airport authority bonds that either the property or revenues from the property will never be taxed. Thew stated it is the opinion of the County Attorney's Office that the new legislation providing for taxation of leased property cannot be constitutionally applied to airport authority property because of the covenant. He said it would be an unconstitutional infringement of contract rights of bond holders. Any property and all property of the Airport Authority, even if it is leased to private businesses, must continue, under the terms of the Constitution, to be exempt. Thew stated it would be the County Attorney Office's recommendation to grant the protests with respect to all of the properties previously identified on Exhibit A.

MOTION: Steinman moved and Heier seconded to grant the protests for Lincoln Airport Authority listed on pages one and two of Exhibit A, with the exception of protest number 2001-259 (Village of Sprague on page two) and to also include protest number 2001-005 (Ronald D. Flansburg), 2001-010 (Fix-Prop Shop, Inc.), 2001-011 (Lincoln Christian Fellowship), 2001-187 through 2001-190 (Ronald L. Larson) and 2001-223 (Southeast Community College). Hudkins, Workman, Campbell, Heier and Steinman voted aye. Motion carried.

CITY OF WAVERLY

Thew stated it was determined that the two protests filed by the City of Waverly should be exempt.

It was recommended that the protests be granted.

VILLAGE OF SPRAGUE

Thew recommended the protests be granted.

FOUNDATION FOR EDUCATIONAL SERVICES

Thew stated an exemption application should have been filed rather than a protest. He recommended no action be taken because it was improperly filed.

UNIVERSITY OF NEBRASKA FOUNDATION

Thew stated exemption applications should have been filed rather than protests.

MOTION: Steinman moved and Workman seconded to grant the protests for the City of Waverly (Protest 2001-261 and 2001-260) and the Village of Sprague (Protest 2001-259). Workman, Campbell, Steinman and Heier voted aye. Hudkins was absent from voting. Motion carried.

MOTION: Steinman moved and Workman seconded to defer action on the University of Nebraska Foundation and the Foundation for Educational Services until their exemption applications have been considered. Heier, Campbell, Steinman and Workman voted aye. Hudkins was absent from voting. Motion carried.

VILLAGE OF PANAMA

Thew stated in the Assessor's investigation it was discovered that the properties were entitled to continue to be exempt. He explained protest 2001-263 is leased to the United States Post Office which is a public purpose and should continue to be exempt. The remaining five protests (2001-268, 2001-264, 2001-267, 2001-266 and 2001-265) are abandoned railroad right-of-way which the village is using for trails/park purposes which is listed in the statute as a public purpose.

MOTION: Steinman moved and Heier seconded to grant protest numbers 2001-268, 2001-263, 2001-264, 2001-267, 2001-266 and 2001-265 (Village of Panama). Workman, Steinman, Heier and Campbell voted aye. Hudkins was absent from voting. Motion carried.

MOTION: Steinman moved and Heier seconded adjournment of the Board of Equalization. Heier, Campbell, Steinman and Workman voted aye. Hudkins was absent from voting. Motion carried.

Bruce Medcalf
County Clerk